



**Cynulliad Cenedlaethol Cymru
Y Pwyllgor ar Fesur Llywodraeth Cymru**

**The National Assembly for Wales
The Committee on the Government of Wales Bill**

**Dydd Llun, 6 Mawrth 2006
Monday, 6 March 2006**

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau o'r Cynulliad yn bresennol: Dafydd Elis-Thomas (Cadeirydd), Leighton Andrews, Nick Bourne, Jocelyn Davies, Michael German, Jane Hutt, Ann Jones, Ieuan Wyn Jones, Val Lloyd, David Melding, Christine Gwyther.

Swyddogion yn bresennol: Peter Jones, Cwnsel i Wasanaeth Seneddol y Cynulliad; Hugh Rawlings, Cyfarwyddwr y Grŵp Llywodraeth Leol a Diwylliant; Paul Silk, Clerc y Cynulliad.

Gwasanaeth Pwyllgor: Gareth Williams, (Clerc); Siân Wilkins, Clerc; Sarah Beasley, Dirprwy Glerc.

Assembly Members in attendance: Dafydd Elis-Thomas (Chair), Leighton Andrews, Nick Bourne, Jocelyn Davies, Michael German, Jane Hutt, Ann Jones, Ieuan Wyn Jones, Val Lloyd, David Melding, Christine Gwyther.

Officials in attendance: Peter Jones, Counsel to the Assembly Parliamentary Service; Hugh Rawlings, Director, Local Government and Culture Group; Paul Silk, Clerk to the Assembly.

Committee Service: Gareth Williams, (Clerc); Siân Wilkins, Clerc; Sarah Beasley, Deputy Clerk.

*Dechreuodd y cyfarfod am 4.31 p.m.
The meeting began at 4.31 p.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1860] **Y Llywydd:** Prynawn da, a chroeso i'r pwyllgor. Mae Christine Gwyther yn dirprwyo ar ran Gwenda Thomas heddiw. **The Presiding Officer:** Good afternoon, and welcome to the committee. Christine Gwyther is substituting for Gwenda Thomas today.

[1861] Welcome, Christine.

4.32 p.m.

Eitemau sy'n Weddill Outstanding Items

[1862] **Y Llywydd:** Mae papur gan y Gweinidog ar ei hymatebion, a phapur ar Atodlen 11, paragraff 33 y Mesur. **The Presiding Officer:** There is a paper from the Minister on her responses, and a paper on Schedule 11, paragraph 33 of the Bill.

[1863] Minister, would you like to speak to your note?

[1864] **The Business Minister (Jane Hutt):** It is fairly straightforward. I do not know whether anyone wishes to raise anything on my responses, but I have responded to all the points that I said that I would respond to.

[1865] **Y Llywydd:** A oes unrhyw sylwadau? **The Presiding Officer:** Are there any comments?

[1866] **Jocelyn Davies:** We do not want to go over exactly the same ground as we covered originally. However, on amendment 2, I am disappointed that the Minister did not want to put the scheme for parliamentary legislative provisions on a statutory footing. There will come a

time when we have different political parties here and in Westminster, and I think that we would benefit from it being on a statutory footing. The devolution guidance note is within ministerial discretion, and we could regret that later on. However, we have to accept that the Minister has decided that she is not persuaded by that argument.

[1867] **Nick Bourne:** It is fair to say that we are disappointed by just about all these responses, though not surprised, perhaps. This will go to Plenary; we realise that we do not have the voting strength here, so there does not seem to be much point in pushing it. However, we are disappointed. Given that many of these amendments were put forward in a non-partisan way—not all, but many of them—the response is disappointing. However, we will return to this when it comes to Plenary.

[1868] **Michael German:** I have two quick comments. I agree with what has just been said. On amendment 4a, we have an opinion here from the Parliamentary Counsel. I have an opinion from Alex Carlile, who is also a Government adviser on these matters, which is different from that of the Parliamentary Counsel; I think that I will bring that to Plenary. I do not think that the Minister, in response to amendment 45, has addressed the issue, which is not about political groups without an executive role—it is also for political groups with an executive role, because it applies on both sides of the Chamber, and the Minister has simply taken an Executive, Government view, rather than a balanced view on behalf of the whole Assembly. Whether the Presiding Officer and the Deputy Presiding Officer are both from the Government side or both from the non-Government side, the same issue affects us. I will take these two amendments to Plenary when we get to that.

[1869] **The Presiding Officer:** Minister, do you have any further response to that?

[1870] **Jane Hutt:** I do not think so. I have reflected on my capacity in this regard as the Assembly's Business Minister. It is not my Bill, but I have taken advice and these points can be discussed and debated further when the report comes before the Assembly.

[1871] **The Presiding Officer:** Are there any further remarks on either the annex to the ministerial response, the accompanying document, or on paper 2 on Schedule 11, paragraph 33?

[1872] **Nick Bourne:** What Jane has just said, that it is not her Bill—and it is not, of course—but that she has taken advice, was rather illuminating. I presume that these responses are those of the Assembly Government and not of the Government at Westminster.

[1873] **Jane Hutt:** As I said, I have brought my responses to you in my capacity as the Assembly's Business Minister, and in good faith, in the context of the Government of Wales Bill.

[1874] There are some helpful notes, in that I have confirmed provisions in relation to the assurances that I have given about Standing Orders, which I hope has been welcomed. The point was also to give further explanation and clarification, as well as to give a response to the amendments that were put forward.

[1875] **The Presiding Officer:** If there are no further comments on what is labelled as paper 2, we will move on.

Agweddau Cyfle Cyfartal Mesur Llywodraeth Cymru Equality Aspects of the Government of Wales Bill

[1876] **Y Llywydd:** A oes unrhyw **The Presiding Officer:** Are there any

sylwadau ar lythyr Gwenda Thomas neu ar y papur sy'n ymateb?

comments on Gwenda Thomas's letter or on the paper in response?

[1877] **Ieuan Wyn Jones:** Yr oeddwn yn sylwi yn llythyr Gwenda—yr wyf yn cymryd ei bod yn ysgrifennu fel Cadeirydd y Pwyllgor Cyfle Cyfartal ac nid fel Aelod unigol—ei bod yn cyfeirio at y ffaith iddi gysylltu â'r Ysgrifennydd Gwladol yn hylch y mater hwn. Byddai'n dda o beth pe bai modd i'r pwyllgor gael gwybod os bu unrhyw ymateb gan yr Ysgrifennydd Gwladol er mwyn inni wybod sut mae modd inni, os o gwbl, gyfeirio ato yn ein hadroddiad.

Ieuan Wyn Jones: I noticed in Gwenda's letter—I assume that she was writing as Chair of the Committee on Equality of Opportunity and not as an individual Member—that she referred to the fact that she had contacted the Secretary of State regarding this issue. It would be useful if the committee could be informed as to whether there has been any response from the Secretary of State so that we can know in what way, if at all, we can refer to it in our report.

[1878] **Y Llywydd:** Gwelaf nad yw'r Gweinidog yn awyddus i ateb ar ran yr Ysgrifennydd Gwladol. A hoffech i mi, fel Cadeirydd y pwyllgor, ohebu â'r Ysgrifennydd Gwladol ymhellach i sicrhau ein bod yn derbyn copi o'i ymateb? Yr oeddwn yn cymryd yn ganiataol y byddai copi o'r ymateb a fyddai'n dod i Gwenda fel Cadeirydd y Pwyllgor Cyfle Cyfartal yn cael ei anfon atom ni.

The Presiding Officer: I see that the Minister does not wish to respond on behalf of the Secretary of State. Would you like me, as Chair of the committee, to correspond further with the Secretary of State to ensure that we receive a copy of his response? I assumed that a copy of the response that Gwenda would receive as Chair of the Committee on Equality of Opportunity would be sent to us.

[1879] **Ieuan Wyn Jones:** O'n hochr ni, os yw'r Ysgrifennydd Gwladol yn ymateb yn gadarnhaol, gallem nodi hynny yn yr adroddiad. Os nad yw'n gwneud hynny, gallwn ystyried yr hyn y byddwn yn ei gynnwys. Heb wybod ei ymateb, yr ydym rhywfaint yn y tywyllwch.

Ieuan Wyn Jones: From our point of view, if the Secretary of State responds positively, we could note that in the report. If not, we can consider what we will include. Without knowing his response, we are left somewhat in the dark.

4.40 p.m.

[1880] **Y Llywydd:** Hyd y gwn i, ni ddaeth llythyr mewn ymateb ond efallai fy mod yn anghywir.

The Presiding Officer: As far as I am aware, no letter has come in response, but perhaps I am wrong.

[1881] **Jane Hutt:** I am conscious of the fact that this is coming from Gwenda Thomas, as the Chair of the Committee on Equality of Opportunity, and that is why I did not comment earlier. However, I feel that we should await the response of the Secretary of State and I am sure that that would need to be shared with the committee. I will follow that up, if that would be helpful.

[1882] **The Presiding Officer:** If there was a response, we could incorporate it in the report, if there were agreement that it should be incorporated.

4.41 p.m.

Adroddiad Terfynol Final Report

[1883] **Y Llywydd:** A oes unrhyw **The Presiding Officer:** Are there any

sylwadau?

[1884] **Ieuan Wyn Jones:** Dyma'r tro cyntaf yr wyf yn ei gofio i unrhyw bwyllgor yn y Cynulliad weithredu fel rhyw fath o bwyllgor craffu yn yr ystyr ein bod fwy neu lai wedi mynd drwy'r Mesur, nid cymal wrth gymal, ond, yn sicr, gwelliant wrth welliant. Felly, nid wyf yn siŵr fy mod yn gweld hwn fel adroddiad pwyllgor arferol gan fod cymaint ynddo sydd yn gyflwyniadau, trafodaethau a phleidleisio ar welliannau. Byddaf yn hapusach felly o weld yr adroddiad fel adroddiad pwyllgor craffu yn hytrach nag adroddiad arferol gan bwyllgor yn y Cynulliad.

[1885] I'r graddau hynny, nid wyf yn siŵr a oes angen i ni wneud sylwadau ar y drafodaeth. Efallai y dylem gyflwyno i'r Cynulliad dim ond y gwelliannau a gynigwyd a'r hyn a ddigwyddodd i'r gwelliannau hynny, fel bod pawb o leiaf yn gwybod yr hyn a drafodwyd yn y pwyllgor. Felly, i'r graddau hynny, byddai'r adroddiad yn wahanol i'r hyn y mae pwyllgorau yn cyflwyno fel arfer i'r Cyfarfod Llawn. Teimlaf y dylem drafod y materion hynny y dylid eu cynnwys mewn adroddiad pwyllgor craffu.

[1886] **Leighton Andrews:** From my experience, which is more limited than that of the leader of the opposition, this is at least the third Assembly committee that I have been on that has dealt with scrutinising a Bill or a draft Bill. I sat on one that was concerned with the Public Audit Wales Bill, for example, and subsequently I took part in a discussion, in substituting for a member of the Economic Development and Transport Committee, on the Transport Wales Bill. It seems to me that we have had a number of such discussions in the past, so I do not think that there is anything particularly unique about the nature of this committee in that regard.

[1887] **Nick Bourne:** Given the nature of this piece of legislation, I feel that perhaps the situation is unique. I accept what Leighton says, and I understand where he is coming from, but this is such an important piece of legislation, covering the whole governance of Wales and the approach to legislation and so on and the future of this institution, that this is different. There does have to be a scrutiny approach rather than otherwise.

[1888] **The Presiding Officer:** In what way would such an approach differ from what is briefly set out in the paper on the final report? It seems to me that what has been said, certainly from the opposition side so far, coincides with what is set out in the outline: a factual record of the meetings, a summary of outcomes and a full version of the Record for those who would want to pursue it.

[1889] **Ieuan Wyn Jones:** Nid oeddwn, mewn gwirionedd, yn cyfeirio at hynny, ond at y papur sydd yn dod gydag ef.

comments?

Ieuan Wyn Jones: This is the first time that I recall any Assembly committee acting as some kind of scrutiny committee in the sense that we have almost gone through the Bill, not clause by clause, but certainly amendment by amendment. Therefore, I am not sure that I see this as a normal committee report given that so much of it is to do with presentations, discussions and votes on amendments. I am happier, therefore, to see the report as a scrutiny committee report rather than a normal Assembly committee report.

To that extent, I am not sure whether we need to comment on the discussions. Perhaps we should just present to the Assembly the amendments that were proposed and what happened to those amendments, so that everyone is at least aware of what was discussed in the committee. Therefore, to that extent, I would think that the report would be different from what committees normally present to Plenary. I feel that we should discuss those matters that should be included in a scrutiny committee report.

Ieuan Wyn Jones: I was, in fact, referring to the accompanying paper, rather than to that.

[1890] There is another paper, which goes into this in a bit more detail, is there not?

[1891] Mae gennym amlinelliad o'r adroddiad, sydd yn sôn am y cefndir, y canlyniadau a'r casgliadau. Credaf mai'r unig beth y byddai Cyfarfod Llawn y Cynulliad ei angen fyddai adroddiad a oedd yn dweud, 'Dyma'r gwelliannau a gyflwynwyd'. Dylem fod yn glir am beth fydd yn cael ei gyflwyno i'r Cynulliad. Hyd y gwelaf i, ni fydd y Llywodraeth am gyflwyno unrhyw welliant—mae wedi llwyddo i wrthod pob gwelliant yn y pwyllgor. Felly, yr unig beth y bydd gan y Cynulliad ddiddordeb ynddo yw a fydd gwelliannau'n cael eu cyflwyno, fel rhyw fath o Gyfnod yr Adroddiadau. Mae'n bosibl y bydd cyfres o gynigion, felly yr unig beth y bydd y Cynulliad am ei gael fydd adroddiad sy'n dweud, yn syml, 'Cyfarfu'r pwyllgor; dyma'r gwelliannau a gynigwyd; dyma ganlyniad y pleidleisiau ar y gwelliannau hynny'. Nid wyf yn gweld bod angen dim arall. Yr unig beth y bydd y Cynulliad am ei wybod yw beth ddigwyddodd yn y pwyllgor o safbwynt gwelliannau penodol.

[1892] Dyna y disgwyliwn i adroddiad craffu ei wneud, yn hytrach na'r hyn a wna adroddiad pwyllgor arferol, boed hwnnw'n bwyllgor polisi neu adolygiad. Bydd yn rhaid i adroddiad y pwyllgor hwn i'r Cyfarfod Llawn fod ar batrwm yr hyn y byddwn yn ei wneud, o bosibl, ar ôl 2007, sef beth fydd yn digwydd yn dilyn pwyllgor craffu. Sut fydd y Cynulliad yn trafod hynny mewn Cyfarfod Llawn, wedi iddo fod drwy'r gwelliannau i gyd? Y ffordd o fwrw ymlaen, yn fy marn i, yw gosod rhestr o'r gwelliannau a beth ddigwyddodd iddynt. Nid oes angen unrhyw beth arall yn yr adroddiad.

[1893] Felly, mater i'r Cynulliad yw penderfynu beth mae am ei wneud gyda'r wybodaeth a sut mae am ddelio gydag unrhyw welliant. Yn y pen draw, yr hyn y bydd y Cynulliad yn gorfod penderfynu arno yw a oes gwelliannau y mae am eu trafod sydd wedi'u trafod yn y pwyllgor ond heb eu pasio, neu rywbeth felly. Dyna fyddai rhywun yn disgwyl ei weld yng Nghyfnod yr Adroddiadau.

We have an outline of the report, which discusses the background, the outcomes and the conclusions. I believe that the only thing that the Assembly in Plenary would require would be a report that said, 'These are the amendments that were tabled'. We should be clear as to what will be presented to the Assembly. As far as I can see, the Government will not want to table an amendment—it has succeeded in opposing every amendment in the committee. Therefore, the Assembly will only be interested in knowing whether amendments will be tabled, as some kind of Report Stage. It is possible that there will be a series of motions, so the Assembly will only want a report that says, simply, 'The committee met; these are the amendments that were proposed; these are the results of the votes on those amendments'. I do not see that anything else is required. All that the Assembly will want to know is what happened in committee in relation to specific amendments.

That is what I would have expected a scrutiny report to do, as opposed to what the report of an ordinary committee—a policy or review committee—would do. This committee's report to Plenary will have to follow the pattern of what we will be doing, possibly, post 2007, namely what will happen following a scrutiny committee. How will the Assembly deal with that in Plenary, having been through all the amendments? The way forward on this, in my opinion, is to set out a list of the amendments and what happened to them. There is no need for anything else in the report.

Therefore, it is for the Assembly to decide what it wants to do with the information and how it wants to deal with any amendment. In the end, the Assembly will have to decide whether there are any amendments that it wants to discuss that have been discussed, but not passed, at committee, or something similar. That is what one would expect to see at Report Stage.

[1894] **Y Llywydd:** Os gallaf fod o gymorth, gan fy mod yn chwilio am gytundeb, os yw hynny'n bosibl, mae'r clerc, yn garedig, wedi dangos imi'r prif gopi o'r cyfan sydd wedi digwydd—hynny yw, rhestr o'r holl welliannau a gynigiwyd a'r canlyniad iddynt. Felly, pe baem yn paratoi'r adroddiad yn y modd hwnnw, ni fyddai angen inni gynnwys manylion o'r Papur Gwyn a'r Mesur. Yn amlwg, gallem gynnwys cylch gorchwyl y pwyllgor fel mater ffeithiol, ond ni fyddai angen inni drafod sut yr ydym wedi dynesu at y Mesur, gan ein bod, yn amlwg, wedi defnyddio dull craffu. Gallem ddefnyddio'r prif gopi hwn fel adroddiad, os nad oes anghytundeb mawr â hynny.

The Presiding Officer: If I could be of assistance, as I am looking for agreement, if possible, the clerk has kindly shown me the master copy of all that has taken place—a list of all the amendments proposed and the outcome. Therefore, if we were to prepare the report in that way, we would not need to include details from the White Paper and the Bill. Obviously, we could include that committee's terms of reference, as a factual matter, but we would not need to discuss our approach to the Bill, because we have, clearly, used the scrutiny method. We could use this master copy as the report, if there is no great disagreement about that.

[1895] **Leighton Andrews:** I came here to support the proposal that was in the paper before us, so—

[1896] **The Presiding Officer:** Order. I am speaking precisely to the proposal that is in the paper before us.

[1897] **Leighton Andrews:** With respect, I think that you just suggested a change to what is in these papers, as I understood it.

[1898] **The Presiding Officer:** No, I was commenting on what is in the annex. Everything that I have said is in line with what is in the original paper.

[1899] **Leighton Andrews:** Okay, in that case, I am with you.

4.50 p.m.

[1900] **Christine Gwyther:** It sounded to me as though there was a proposal from Ieuan that we do not include details of the 'Better Governance for Wales' White Paper or the Government of Wales Bill, and only include the committee's terms of reference and the amendments. I cannot see what is wrong in having exactly what is outlined in the annex that came to us today.

[1901] **The Presiding Officer:** If there is no consensus on this, could I see a motion on this matter, on whether we should follow the original paper in its bare outline or follow the annex?

[1902] A oes rhywun am gynnig?

Is someone willing to make a proposal?

[1903] **Ieuan Wyn Jones:** Yr wyf yn fodlon cynnig hynny, heb weld geiriad yr adroddiad. Yr wyf yn cymryd y cawn weld yr adroddiad rywbryd. A yw hynny'n gywir?

Ieuan Wyn Jones: I am willing to propose that, without seeing the wording of the report. I take it that we will, at some point, see the report. Is that correct?

[1904] **Y Llywydd:** Ydyw.

The Presiding Officer: Yes.

[1905] **Ieuan Wyn Jones:** Hynny yw, bydd yr adroddiad yn dod ger ein bron ar ryw

Ieuan Wyn Jones: That is, the report will come before us at some point.

bwynt.

[1906] **Y Llywydd:** Dyma'r math o beth yr oeddwn yn cyfeirio ato, sef crynodeb o'r cyfan sydd wedi ei drafod, yr holl welliannau a'r canlyniadau.

The Presiding Officer: This is the kind of thing to which I was referring, namely a summary of all that has been discussed, all the amendments and the outcomes.

[1907] **Ieuan Wyn Jones:** Yr hyn y byddwn yn ei gynnig, felly, yw y dylid nodi ar ben yr adroddiad, 'Hwn yw cylch gorchwyl y pwyllgor, dyma'r gwelliannau a drafodwyd yn y pwyllgor, a dyma ganlyniad y bleidlais ar bob gwelliant'. Wedyn, dylid cyflwyno hynny i'r Cynulliad fel yr adroddiad. Nid wyf yn gweld bod llawer o bwynt gwneud unrhyw beth arall gan nad oes dim arall wedi ei drafod. Byddwn yn cynnig ein bod yn llunio adroddiad ar sail y cylch gorchwyl, yr holl welliannau a chanlyniad y pleidleisiau arnynt. Yr wyf yn ddigon hapus i lythyr y Trefnydd ar yr ymatebion yr ydym wedi eu derbyn fod ar gael i Aelodau, ond nid wyf yn gweld bod llawer o bwynt i gynnwys unrhyw beth arall. Dyna'r pwynt yr wyf yn ei wneud. Dyna yw'r dull y byddwn i wedi disgwyl i bwyllgor craffu ei ddefnyddio i adrodd yn ôl.

Ieuan Wyn Jones: What I would suggest, therefore, is that it should be noted at the top of the report, 'These is the committee's terms of reference, here are the amendments that were discussed in the committee, and here is the result of the vote on each amendment.' That should then be presented to the Assembly as the report. I do not think that there is much point in doing anything else because nothing else has been discussed. I would suggest that we prepare a report on the basis of the terms of reference, the amendments and the results of the votes. I would be quite happy for the Minister's letter on the responses that we have received to be available to Members, but I do not think that there would be much point in including anything else. That is the point that I am making. That is how I would expect a scrutiny committee to report back.

[1908] **Leighton Andrews:** That does not sound to me like a committee report; that just sounds like a voting record, to be candid. That is not what was originally proposed in the paper. I am afraid that I do not have the terms of reference with me, but I would like to be clear on what the terms of reference said as to how we were to report back.

[1909] **The Presiding Officer:** Is it convenient for me to read them, to refresh our memories? I will read the English-language version, which is in front of me. The terms of reference of the committee are to

'The terms of reference for the Committee on the Government of Wales Bill will be to:

- a) consider the proposals set out in the Bill;
- b) consider such other matters arising from the Bill as the Committee may determine.

[1910] and it notes that

'The Committee will report its recommendations as appropriate'.

[1911] **Leighton Andrews:** They are familiar words.

[1912] **Ieuan Wyn Jones:** How appropriate.

[1913] **Leighton Andrews:** They are appropriate in that it concludes nothing.

[1914] **The Presiding Officer:** No, we know what that means. It means that I am operating as Chair, subject to any guidelines that I made for myself a few years ago, so we are able to

report in any form that we wish.

[1915] **Nick Bourne:** It is perfectly true that we have not really discussed the ‘Better Governance for Wales’ White Paper or the Government of Wales Bill. It has been a pretty adversarial procedure—the opposition has put forward amendments and the Government has defeated them on a casting vote. No amendment has been accepted; not all of the amendments have had all-opposition support, but in terms of the way that we have proceeded, we have not had a discussion about the background of the Bill or the Government’s White Paper. It has been very much a case of putting forward amendments and having a bit of discussion on them, admittedly, and then a vote. That is what has happened, so I would have thought that that should be the body of the report.

[1916] **Leighton Andrews:** I am not sure that I entirely agree with that. It seems to me that there have been occasions when we have identified one or two areas and come forward with recommendations that have been taken up, so it is not absolutely true to say that this has been a simple discussion of a proposal or an amendment, which has then been voted down. In some cases, quite fruitfully, we have identified one or two areas where we think that there is a specific issue with the Bill, therefore they are going to—

[1917] **Ieuan Wyn Jones:** Would Leighton give way?

[1918] **Leighton Andrews:** No, I am carrying on for the moment. I think that the kind of report that we are publishing should include some recommendation, as suggested in the terms of reference, on those points. It would be perfectly legitimate for us to do that as a committee.

[1919] **Christine Gwyther:** We should include especially those areas on which we reached consensus with regard to what should be applied in Standing Orders. I have not attended every meeting, and I am here as a substitute this evening, but there have been areas of consensus. To set out the report in what would seem to be an adversarial way would be to miss out some of the good work that has been done.

[1920] **Ieuan Wyn Jones:** I cannot recollect a single amendment being accepted. Where the Minister has reflected, she has done so in the negative. Her letter does not contain a single proposal on which she agrees that we had a point. What normally happens in parliamentary systems is that a case will be made for an amendment—sometimes a probing amendment—the Minister will go away and think about it and, occasionally, turn up at Report Stage with something that meets you halfway. I cannot think of a single amendment that Jane would present in the Assembly’s proceedings as something on which the opposition had a point on which the Government is prepared to concede and consider accommodating in the Bill.

[1921] If you look at the Record of Proceedings, you will see that the truth is that the Government has not accepted a single amendment—not one. There may have been occasions when we have withdrawn amendments on the basis that the matter could be considered in a Standing Orders committee, but, frankly, there is no Standing Orders committee. It could be that, when it comes to it, that will be resisted; we do not know.

[1922] The point that I am making is that, if the Assembly is to be informed about the deliberations of this committee, that is bound to be reflected in the amendments, and in what was proposed and what was rejected. Christine’s point can be covered in Jane’s letter. Jane’s letter says what she has done. If the Assembly is made aware, through the report, in an annex, that this was the Minister’s response on the points on which she agreed to reflect, the Assembly will be totally informed. However, to give the impression that the committee has reached a consensus flies in the face of reality. The Assembly needs to know that a consensus was not reached.

[1923] **Christine Gwyther:** I just do not agree.

[1924] **Nick Bourne:** So, there is no consensus there.

[1925] **Christine Gwyther:** Exactly. We are talking about matters that will be remitted to the Standing Orders committee, and I think that it is very important that there is a Standing Orders committee that knows exactly the will of this committee. If those parts of the discussion are not included in the report that goes to Plenary, how on earth will it know? The personnel will probably not be exactly the same, and members of that committee will need a very clear record of our deliberations and the areas on which we reached agreement—and genuine agreement—on how certain matters should be taken forward.

[1926] **Leighton Andrews:** I disagree with what Ieuan said with regard to what happens in parliamentary systems. He quoted exclusively the experience of the UK parliamentary system. If you look at the way in which, say, the European Parliament draws up reports using rapporteurs on European Union directives, you will find that a totally different system would apply. Rapporteurs report to the committee, which then passes an amended version of the report—which would not be a line-by-line scrutiny or a list of amendments—to the plenary session of the European Parliament. We can cite examples, but we are making our procedures here. What was expected of us by Plenary was that, as a committee, we would produce a report, and I think that that is what we should do.

[1927] **The Presiding Officer:** That is a matter for me. I have to say that it is not clear from the resolution that set out our terms of reference what the Assembly expected of us. In the committee's initial discussion, how we handled it and how we progressed were matters for us. Therefore, it seems that it is still open to us to produce a report in whatever form we wish. It is not clear, either from any parliamentary tradition or anything that we make up as we go along here, that it has to be done in one way or another.

5.00 p.m.

[1928] I was trying earlier to see whether we could reach agreement, and I will still try to reach agreement as to the form of the report because, obviously, that makes it easier than my having to produce a Chair's draft report to be agreed electronically only to find substantial disagreement about its form. Were that to happen, I can assure you that I would go for the lowest, most minimal document possible, because that would be least contentious, in my interpretation of what has been said this evening. That would please none of you, no doubt.

[1929] **Jane Hutt:** This is the Assembly's Bill committee, and the proceedings have resulted, I hope, in clarification and assurances from me as the Business Minister, and not just in terms of possibly leading to a motion being withdrawn; amendments have been withdrawn on the basis of assurances from me, or the clarification of points. It has been a very valuable process, and not just the Assembly, but the people of Wales will want to see a report of this committee. It has been very valuable for those of us who have taken part in it.

[1930] **Ieuan Wyn Jones:** Nodaf brofiad amlwg Leighton o'r hyn sy'n digwydd yn Senedd Ewrop. Er hynny, yn fy mhrofiad i, mae dau fath o bwyllgor i graffu ar Fesur. Mae Mesurau lle mae cefnogaeth gyffredinol i'r egwyddor, ac felly cewch bwyllgor gyda'r ddwy ochr yn gweithio gyda'i gilydd i wella'r Mesur, fel ei fod yn dod allan yn well, oherwydd bod gwelliannau wedi eu derbyn neu fod pwyntiau wedi eu gwneud ac yn cael **Ieuan Wyn Jones:** I note Leighton's obvious experience of what is happening in the European Parliament. However, in my experience, there are two types of committee to scrutinise a Bill. There are Bills with general support for the principle, and so you have a committee where the two sides work together to enhance the Bill, so that the Bill emerges as an enhanced Bill, because amendments have been accepted or points

eu hystyried gan y Llywodraeth, cyn iddi ddod yn ôl gyda gwelliannau. Mae Mesurau eraill, fodd bynnag, nad ydynt ond yn destun trafodaethau, gyda'r Mesur yn newid dim am fod y Llywodraeth wedi penderfynu ymlaen llaw na fydd yn derbyn unrhyw welliant. Yn anffodus, cawn ein hunain yn yr ail gategori, sy'n golygu nad yw'r Llywodraeth, er y dadleuon, wedi derbyn unrhyw welliant i'r Mesur. Felly, ni allaf ddweud ei fod yn Fesur gwell ar ddiwedd trafodaethau'r pwyllgor gan nad oes newid wedi digwydd.

[1931] O ganlyniad, ni welaf werth i'r Cynulliad fel corff wybod am yr hyn sydd mewn gwirionedd yn fanion—gallwn fod yn glir mai manion sydd wedi cael eu crybwyll gan y Llywodraeth fel eglurhad ar ambell beth. Os ydym i ddefnyddio'r Cynulliad i benderfynu ar rai pethau nad oes penderfyniadau wedi eu gwneud yn eu cylch yn y pwyllgor, nid wyf yn siŵr bod diben i ni lunio adroddiad. Yr unig wybodaeth, hyd y gwelaf, sydd ei hangen yw'r hyn sydd wedi digwydd yn y pwyllgor.

[1932] Nid ydym wedi gwneud dim byd arall yn y pwyllgor heblaw craffu. Nid ydym wedi trafod y Papur Gwyn na'r Mesur fel y cyfryw, ond y cyfan a wnaethom oedd trafod gwelliannau posibl. Felly yr ydym wedi gweithredu fel pwyllgor craffu pur. O ganlyniad, byddwn yn dal at y cynnig mai'r unig beth y byddwn ni'n dymuno i'r adroddiad ei gynnwys yw'r cylch gorchwyl, cofnod syml o'r hyn ddigwyddodd, a llythyr y Gweinidog. Nid wyf wedi clywed dim o'r ochr arall i'm darbwyllo bod gwerth mewn gwneud fel arall.

[1933] **Y Llywydd:** Yr wyf yn oedi, ond nid yn fwriadol, wrth gyflwyno cynnig gerbron. Nid wyf yn siŵr i ble y byddaf fi, fel Cadeirydd, yn mynd nesaf pe bai'r cynnig yn cael ei golli a bod dim eglurder ynglŷn â'r broses. Nid beirniadaeth yw honno; dim ond sylw o ran gweithdrefn.

[1934] **Ieuan Wyn Jones:** Os nad oes consensws o blaid a phe bai gwrthwynebiad chwyrn i'r syniad—yr wyf wedi ei roi mewn ffordd sydd yn ceisio symud pethau yn eu

are made, which the Government then considers, thereafter returning with amendments. There are other Bills, however, that are subject to nothing more than discussion, and the Bill does not change at all because the Government has decided in advance that it will not allow any amendment. Unfortunately, we find ourselves in the second category, which means that the Government, despite the arguments, has not accepted any amendments to the Bill. I cannot therefore say that it is an enhanced Bill at the end of the committee's deliberations because no change has occurred.

Consequently, I cannot see any merit in the Assembly as a body knowing what in reality amount to minutiae—we can be clear that the Government has dealt with minutiae in explaining certain points. If we are to use the Assembly to decide on certain matters on which no decisions have been made in the committee, then I am not certain that there is much point in our drafting a report. The only information necessary, as far as I can see, is what has happened in the committee.

We have done nothing else in the committee except scrutinise. We have not discussed the White Paper or the Bill as such, because all that we have done is discuss potential amendments. Therefore we have operated purely as a scrutiny committee. Consequently, I would maintain that the only thing that we would want to see included in the report is the remit, a simple record of events, and the Minister's letter. I have not heard anything from the other side to persuade me that there is merit in doing otherwise.

The Presiding Officer: I am, though not deliberately, stalling in proposing a motion. I am not sure what course I, as Chair, should follow if the motion were to be lost and there is no clarity as to the process. That is not a criticism; it is just a comment about procedure.

Ieuan Wyn Jones: If there is no consensus in favour and there is fierce opposition to the idea—I have proposed it in such a way as to try to move things along—I would not wish

blaen—ni fyddwn yn dymuno gwthio hynny i to push it to a vote.
bleidlais.

[1935] **Nick Bourne:** I come back to the point that we should be reflecting on the way that we have proceeded through all these meetings. I accept that Chris has been at some of them, but she has not been at all of them. I have been at all of them, and every single amendment that has been proposed has been voted down. Some have been withdrawn, that is perfectly true, but all those that have been proposed have been voted down. There has been no discussion of the White Paper, there has only been discussion of the Bill in terms of the amendments that were put forward, and I just cannot see how the report can contain anything other than the amendments that were proposed and whether or not they have been defeated. The Minister's signed letter on the matters around Standing Orders, which is for the benefit of the people on the Standing Orders committee, is perfectly in order, but there are other ways that they can access more information on that if they want. I just do not see that that is a problem, and to try to rewrite the experience of these meetings as if there has somehow been a great consensus on these issues flies in the face of all of the evidence. On every single issue of significance, there has been a vote with five votes in favour and five votes against, and then we have had the casting vote. It is wrong to suggest, in the way that the Minister has, that there has been a consensual approach on any of these issues of any moment. That just has not happened, and to try to present it otherwise would be to mislead the Assembly. We have proceeded on the basis of amendments and votes. That is a matter of history; we cannot rewrite that in terms of the way in which the report is presented, nor should we.

[1936] **Christine Gwyther:** I agree with you, Nick, that we should not rewrite history, and that is exactly why a full version of the Record will be very useful and should form a central part of the committee report. If we are just talking about style, which it sounds as if we might be, because we have come from different places in our discussions, I do not think that we are ever going to agree on that. The only fair way to proceed is as the paper sets out, which is to have a full version of the Record, which will include all of the votes, and so people will see the way that each one of us voted. As an individual, I am happy to stand by that, and I am sure that you are too. I am also happy to stand by the discussions that took place.

[1937] **Nick Bourne:** We did not discuss details of the 'Better Governance for Wales' White Paper and the Government of Wales Bill. It is suggested that that should be included in the report. I trust, then, that you would agree that there is no need for that.

[1938] **Christine Gwyther:** It does not say that.

[1939] **Nick Bourne:** It does. It says that that is outlined in the annex; I am reading it.

[1940] **Ann Jones:** Yes. That is background information.

[1941] **Nick Bourne:** Yes, but it was not something that we have used and I just think that it is misleading.

[1942] **Christine Gwyther:** We were referring to them all the time.

[1943] **Nick Bourne:** We were not.

[1944] **Christine Gwyther:** We were.

[1945] **Nick Bourne:** That is just not true.

[1946] **Christine Gwyther:** Of course it is true.

[1947] **Nick Bourne:** With regard to the White Paper?

[1948] **Ieuan Wyn Jones:** Can you remember a discussion on it, Christine?

[1949] **Christine Gwyther:** I am sure that there must have been. I am not going to argue with you on detail. You want the report to be as slim as possible; I am just saying that the Assembly as a whole, members of the public, and other analysts out there should have as full a record as possible. I genuinely do not see a problem in that.

[1950] **Leighton Andrews:** On what Christine just said, I am not sure that the opposition want this report to be as slim as possible other than for one simple reason, which is that they want the report to be as divisive as possible and to demonstrate that there has been no consensus on anything, when there have been isolated areas where we have clarified things. It is simply untrue to say that we have not discussed the Government of Wales Bill; the whole discussion in this committee has been about that Bill, and we have drawn out areas of it that we have been better able to identify than Westminster could have done, and some of those are related, for example, to issues following Assembly elections. We know what the opposition's game is: it wants to be able to go to the House of Lords, wave the report and say, 'Look how divided this was, it was totally divided along party lines, and there was no measure of consensus whatsoever.' I am sorry, but there were some things that we agreed upon and I think that we need a report that reflects that.

[1951] **The Presiding Officer:** For the record, I have no intention of waving anything about in the House of Lords.

5.10 p.m.

[1952] **Ieuan Wyn Jones:** Leighton, that is the reality that we face. You have demonstrated that. I have never heard a better reason for having this report than Leighton's last speech. Let us be blunt about this: there are four or five major issues in this Bill. It is about whether you should go from stage 3 to stage 4 immediately, which was a proposal that was made, but was rejected. It is about whether people can stand on the list, but that was rejected. There was a proposal that we should be looking at new structures for committees, but that was rejected. On all the major issues, there has been massive disagreement; let us be blunt about that. So, how can Leighton then say that having those odd little things that might have to go to Standing Orders means that we have this major piece of consensus across the committee? It is an absolutely ludicrous position to hold. We have to accept that there are fundamental disagreements on four or five major pieces of this Bill, which have to be reflected in how the debate goes on here and in other places in the future. It would be foolish of us to try to hide that, because that is the reality, and you have to accept that, Leighton.

[1953] **The Presiding Officer:** Christine Gwyther?

[1954] **Christine Gwyther:** We could be in for a long night, Llywydd.

[1955] **The Presiding Officer:** I do not think so.

[1956] **Christine Gwyther:** No-one is trying to hide it, Ieuan. I would say that what you are trying to hide is those areas where there was consensus and positive debate around issues. If you are not embarrassed by anything that you have said in those debates, that is fine, and I am sure that we on this side are not either. The fuller the information that goes to our colleagues in the Assembly and the people outside, the happier I would be.

[1957] **Jane Hutt:** Is everyone happy with having the full Record of Proceedings as part of this report?

[1958] **The Presiding Officer:** Of course, that document is already in the public domain and is already published. The procedural minutes are also in the public domain, which include the voting records. So, both those are in the public domain. So, the question is about whether we do a cut-and-paste job on those or not, if I may speak crudely, or whether we add some gloss to that as we produce it. I have already indicated that if we fail to get agreement this evening as to the nature of the report, I will interpret the resolution of the Assembly, the Minister's resolution, as being the most appropriate and minimalist way of reporting, because then there would be no alternative, it would seem to me. That would mean reproducing what is already in the public domain, plus the Minister's assurances letter. That would become the report. To be perfectly frank with the committee, I do not see that I would have any other alternative. Any correspondence with the Secretary of State for Wales would also be included.

[1959] **Christine Gwyther:** So, is the difficulty with the summary of outcomes from the committee's discussions, which is on the first page of the paper, under the first point? The report will include a full version of the Record and the procedural minutes, which will show the voting. So, we are all agreed that the report will have both of those.

[1960] **Michael German:** No.

[1961] **Nick Bourne:** No.

[1962] **Christine Gwyther:** Well, I thought that we were agreed on that.

[1963] **The Presiding Officer:** They are already public documents.

[1964] **Nick Bourne:** How will they appear in the report?

[1965] **The Presiding Officer:** I would have thought that a hyperlink to the publication would appear in the report. That is the simplest way to do it.

[1966] **Christine Gwyther:** Would there also be a hyperlink to the voting record then?

[1967] **The Presiding Officer:** Yes, I would think so.

[1968] **Leighton Andrews:** Just looking back to the committee that you had on the White Paper itself, Llywydd, it seems to me that there was commentary on the discussions that had taken place in that committee that went into a discussion of a number of the areas that have been explored and thrown out. It seems to me that there have been areas, for example, in discussions on amendments—and amendments may have been withdrawn, but they have been put forward by the opposition as probing amendments—which were there to draw out responses from the Minister, and clarification has been given on some of those issues. It seems to me to be perfectly reasonable to expect a report of this kind, like the previous report on the White Paper, to contain commentary on those issues where that happened, just as it would presumably contain commentary on areas where there were clear divisions. I would have thought that that was a reasonable level of content for a report such as this going back to Plenary. I would not have thought that that was too contentious to write, because you have already been through the process of writing such a report on the White Paper.

[1969] **Jocelyn Davies:** On that point, perhaps Leighton will remember that we took evidence from outside groups on that committee, so the commentary was required because of the nature of the evidence that we were taking. We did not take any evidence from outside organisations in this committee and so it is not a like-for-like comparison.

[1970] **Leighton Andrews:** I am not sure whether it is desperately important that that difference exists. The reality is that in the course of discussion there has been an elaboration of the intention of Government in certain places. That is probably worthy of commentary and of recording in a committee report. I appreciate that I was not a member of the White Paper committee, although I did come along to one session, and that that was different in format, but given that it was a report on the White Paper that precedes this Bill, we are talking about a continuum of policy-making here, and it seems to me to be entirely reasonable to follow a similar approach in drawing up our report.

[1971] **The Presiding Officer:** I believe that we are still where we were 30 minutes ago.

[1972] **Jane Hutt:** Would it be helpful if you were to produce a draft report for circulation and agreement? There has been some measure of agreement tonight as to what should be provided in that.

[1973] **Jocelyn Davies:** On what exactly?

[1974] **Jane Hutt:** As the Business Minister, I am trying to move business forward. We already have time to debate this report in Plenary in the item on the draft business statement on 22 March, and it would be helpful for us to ask you to move this forward by producing a draft for circulation.

[1975] **The Presiding Officer:** I respond to that by emphasising what I said before, namely that, clearly, I would certainly agree with you, Business Minister: there is an obligation arising from an Assembly resolution for this committee, under my chairing, to produce something that can be described as a report. That is fairly clear. What is not clear is what that could be. There is clear disagreement as to whether a report should be a triple-decker sandwich or just a piece of Parma ham on top of some pitta bread—sorry, those are non-vegetarian, non-politically correct comparisons. Therefore, if the committee is requesting that we at this end of the table produce a draft report, I have to make it quite clear that it would be a minimalist report, because there is no clear agreement on anything more ‘maximalist’, as it were. That is the difficulty that I am in.

5.20 p.m.

[1976] **Leighton Andrews:** Well, there is minimalist and there is minimalist. It could be two sides of A4, which would not do justice to the work that the committee has done. There is clearly a lack of agreement on major issues and on how to approach this. However, I would hope that it would not be reduced to a limited record of just the bare bones, and that there would be some commentary within the report.

[1977] **The Presiding Officer:** What do we mean by ‘commentary’? I come from a school of interpretation in which commentary can become interpretation and background. There does not seem to be any agreement on that. However, if we were to indicate separately, linking to the Record of Proceedings and the procedural minutes, on the basis of the master copy of what happened to the proposed amendments, and through the Minister’s note where she believes firmly that she has responded to assurances following the withdrawal of amendments, and set those issues out, along with the other correspondence on equality and with the Secretary of State for Wales, then it seems to me that we would have covered most of what we did. However, I am loath to describe that as ‘commentary’. Is that helpful? Are we able to agree? I take it that this is the Minister’s motion now, and that we will attempt to produce a report generally on these lines.

[1978] **Michael German:** Is it the Minister’s motion? Can we clarify that?

[1979] **The Presiding Officer:** The leader of the opposition made a proposal, but I took it that he did not want to push it to a vote. That was the situation. The Minister came in later with a proposal requesting that we should produce—

[1980] **Jane Hutt:** Do we need to have a motion? I was trying helpfully to move—

[1981] **The Presiding Officer:** I am not pushing it to a vote if we do not have to. However, you suggested a course of action following on from the discussion that we had.

[1982] **Michael German:** I just want to be clear that the draft report will be circulated. It would have to be approved by the committee if it were to proceed, would it not?

[1983] **The Presiding Officer:** Yes, whether it is approved electronically outside committee or approved in a real or a virtual committee, whatever form the approval takes.

[1984] **Ieuan Wyn Jones:** As I am old fashioned in these matters, I would prefer to have a real committee discuss that.

[1985] **Nick Bourne:** Is that something on which we can reach a consensus?

[1986] **The Presiding Officer:** If we are to have a further meeting, it will have to be later this week. On Thursday, if possible. Is that possible?

[1987] **Michael German:** We have a meeting of the Committee on European and External Affairs, and, presumably, there is a space of time at the end of that meeting, or first thing before it.

[1988] **The Presiding Officer:** This is a public meeting of the committee. Would you wish to resolve at this meeting that we withdraw to a private discussion on this issue, or are we happy to conclude? I am just pointing out that there would have to be a procedural motion if we wanted to do that.

[1989] **Michael German:** I think that it should be public.

[1990] **The Presiding Officer:** Thank you. I see that Members agree. The consequence of that is that the draft report will become a public document, which will go to a public committee, if we do not deliberate on it in private. I am happy to do that, if you are. I see that you are. We will, therefore, look for a time on Thursday.

[1991] A oes unrhyw fater arall? Gwelaf nad Is there any other business? I see that there is
oes. not.

*Daeth y cyfarfod i ben am 5.25 p.m.
The meeting ended at 5.25 p.m.*